

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #11	CCRB Case #: 202006201	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/19/2020 9:30 PM	Location of Incident: Parkside Avenue and Parade Place	Precinct: 70	18 Mo. SOL 2/19/2022	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 08/19/2020 10:48 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/14/2020 10:13 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Thomas Redmond	00000	948411	PBBS SU PST
2. PO Alfred Foy	01329	954821	PBBS SU PST
3. PO Frank Aliberti	30222	956377	PBBS SU PST
4. LT Michael Lodato	00000	929441	PBBS SU PST
5. PO Christian Cayenne	02135	954620	PBBS SU PST

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Delton Ng	08868	946700	PBBS SU PST
2. PO Michael Sidorskiy	14429	931988	PBBS SU PST

Officer(s)	Allegation	Investigator Recommendation
A. PO Alfred Foy	Abuse: Police Officer Alfred Foy frisked § 87(2)(b)	
B. PO Alfred Foy	Abuse: Police Officer Alfred Foy searched the vehicle in which § 87(2)(b) was an occupant.	
C. PO Frank Aliberti	Abuse: Police Officer Frank Aliberti searched the vehicle in which § 87(2)(b) was an occupant.	
D. PO Christian Cayenne	Abuse: Police Officer Christian Cayenne searched the vehicle in which § 87(2)(b) was an occupant.	
E. PO Alfred Foy	Abuse: Police Officer Alfred Foy threatened to arrest § 87(2)(b)	
F. PO Alfred Foy	Abuse: Police Officer Alfred Foy refused to provide his shield number to § 87(2)(b)	
G. PO Alfred Foy	Abuse: Police Officer Alfred Foy failed to provide § 87(2)(b) with a business card.	
H. PO Frank Aliberti	Abuse: Police Officer Frank Aliberti failed to provide § 87(2)(b) with a business card.	
I. PO Christian Cayenne	Abuse: Police Officer Christian Cayenne failed to provide § 87(2)(b) with a business card.	
J. LT Michael Lodato	Abuse: Lieutenant Michael Lodato failed to supervise in relation to § 87(2)(b)	
K. SGT Thomas Redmond	Abuse: Sergeant Thomas Redmond failed to supervise in relation to § 87(2)(b)	

Case Summary

On August 19, 2020, § 87(2)(b) filed this complaint with IAB by phone. It was received at the CCRB on September 14, 2020, under IAB log #2020-20380.

On August 19, 2020, at approximately 9:45 p.m., in the vicinity of Parkside Avenue and Parade Place in Brooklyn, § 87(2)(b) was working for Uber Eats when he was stopped by an unmarked police vehicle in which PO Alfred Foy (now a sergeant), PO Frank Aliberti and Sgt. Thomas Redmond (now a lieutenant) of the Patrol Borough Brooklyn South Auto Larceny were riding. PO Foy approached § 87(2)(b)'s driver window, asked for his driver's license and registration, stated he smelled marijuana, and asked § 87(2)(b) to step out of the vehicle.

§ 87(2)(b) exited the vehicle and PO Foy frisked § 87(2)(b) (**Allegation A: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) went to the back of his vehicle and PO Christian Cayenne, PO Michael Sidorskiy, PO Delton Ng, and Lieutenant Michael Lodato, of the Patrol Borough Brooklyn South Auto Larceny, arrived in an unmarked police vehicle. PO Foy, PO Aliberti, and PO Cayenne searched the vehicle (**Allegations B, C, and D: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was then escorted back to his driver's seat. § 87(2)(b) attempted to exit the vehicle and PO Foy stated, "If you don't sit right here, we're gonna put you in handcuffs and you're going to join us in the precinct" (**Allegation E: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) allegedly asked PO Foy for his shield number and allegedly did not receive it (**Allegation F: Abuse of Authority, § 87(2)(g)**).

PO Foy, PO Aliberti, and PO Cayenne left the scene without providing § 87(2)(b) with a business card. In addition, Lt. Lodato and Sgt. Redmond failed to ensure that the officers provide § 87(2)(b) with their business cards (**Allegations G, H, I, J, and K: Abuse of Authority, § 87(2)(g)**).

This incident resulted in no arrests or summonses.

The investigation obtained seven body-worn camera videos (**BR 01, BR 02, BR 03, BR 04, BR 05, BR 06, and BR 07; videos, BR 08, and BR 09; summaries**). Relevant sections are discussed below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Alfred Foy frisked § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Alfred Foy searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (C) Abuse of Authority: Police Officer Frank Aliberti searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (D) Abuse of Authority: Police Officer Christian Cayenne searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (E) Abuse of Authority: Police Officer Alfred Foy threatened to arrest § 87(2)(b).

Allegation (F) Abuse of Authority: Police Officer Alfred Foy refused to provide his shield number to § 87(2)(b)

It was undisputed that § 87(2)(b) swerved prior to being pulled over. PO Foy frisked § 87(2)(b) and he, PO Aliberti, and PO Cayenne searched § 87(2)(b)'s vehicle.

§ 87(2)(b) (**BR 10 and BR 11**) was working for Uber Eats when he was stopped by an unmarked police vehicle. § 87(2)(b)'s driver's side window was down. PO Foy came to driver's side and asked for § 87(2)(b)'s driver's license. PO Aliberti approached the passenger side and Sgt. Redmond went to the back of the vehicle. PO Foy looked at § 87(2)(b)'s license and gave it back. PO Foy informed § 87(2)(b) that he was driving erratically. § 87(2)(b) told PO Foy that he had swerved to avoid a pothole.

PO Foy told § 87(2)(b) to step out. § 87(2)(b) did not feel safe exiting his vehicle because approximately four unmarked police vehicles with at least eight uniformed officers were on scene. PO Foy said he smelled marijuana. § 87(2)(b) did not smoke marijuana and never carried

marijuana in his vehicle. In addition, § 87(2)(b) did not smell marijuana in the vicinity either.

PO Foy asked § 87(2)(b) to step out of his vehicle for five to seven minutes. PO Foy told § 87(2)(b) that if they do not search his vehicle, they will arrest him. § 87(2)(b) got out and did not give PO Foy consent to search the vehicle. PO Foy patted down the outside of § 87(2)(b)'s pockets but did not enter his pockets. § 87(2)(b) was wearing jeans and a windbreaker, but he did not specify which pockets were frisked.

§ 87(2)(b) said, "Can I get a badge number, can I get everyone's badge number?" to PO Foy. PO Foy pointed at his shield but turned so that § 87(2)(b) could not see it. The surrounding officers, who were two to three feet away, started to retreat to their vehicles after § 87(2)(b) asked for shield numbers. § 87(2)(b) asked for shield numbers five to six times.

PO Foy and PO Aliberti searched the front, back, and trunk of the vehicle. When § 87(2)(b) was at the back of the vehicle, he observed PO Foy and PO Aliberti lifting things inside of the vehicle and believed they searched the center console and glove box as well. After searching the front driver's side of the vehicle, PO Foy went to the back of the vehicle and told § 87(2)(b) to turn around several times. PO Foy placed his hand on § 87(2)(b)'s shoulder and arm but did not cause pain. The officers searched § 87(2)(b)'s vehicle for four to five minutes before leaving.

PO Foy (BR 12) was driving westbound on Parkside Avenue when § 87(2)(b) who was driving eastbound, went across the double yellow lines and drove toward PO Foy's vehicle in PO Foy's driving lane under 200 feet away. PO Foy was in a vehicle with PO Aliberti in the passenger seat, and Sgt. Redmond in the back. Everyone in PO Foy's vehicle said, "Woah!" when § 87(2)(b) almost hit them. PO Foy took the initiative to make a U-turn and pull § 87(2)(b) over. Sgt. Redmond never instructed PO Foy to stop § 87(2)(b)'s vehicle.

PO Foy approached § 87(2)(b)'s driver's window, introduced himself by name, and explained that § 87(2)(b) almost hit him by driving in the opposite lane coming toward the officers. PO Aliberti went to the passenger's side and Sgt. Redmond stood behind PO Foy. PO Foy did not remember whether another police vehicle arrived or whether Lieutenant Lodato was on scene. PO Foy instructed § 87(2)(b) to provide his driver's license and registration at least five to six times and he repeatedly refused to provide it. § 87(2)(b) was irate, yelling, and uncooperative throughout the vehicle stop. § 87(2)(b) stated that the officers pulled him over but not a white female driver because he was Black. PO Foy told § 87(2)(b) that he did not see color.

PO Foy told § 87(2)(b) that his vehicle smelled like he was smoking marijuana. PO Foy smelled marijuana as soon as he approached § 87(2)(b)'s vehicle. The odor was coming from inside the vehicle and the driver's window was open.

§ 87(2)(b) still refused to provide his driver's license. PO Foy told § 87(2)(b) that he was giving him a lawful order and if he still refused to provide his identification, he would place him under arrest and take him to the stationhouse. § 87(2)(b) could have been arrested for disorderly conduct. § 87(2)(b) finally gave his driver's license and PO Foy instructed him to step out of the vehicle. § 87(2)(b) exited the vehicle on his own. For safety, PO Foy frisked § 87(2)(b)'s waistband. PO Foy did not recall feeling anything that could have been a safety risk. § 87(2)(b) went to the rear of the vehicle.

PO Foy proceeded to search the front driver's side of the vehicle including the cupholder area and under the seat. PO Foy found a package of rolling papers and some loose rolling papers which he described as paraphernalia used in smoking marijuana. PO Aliberti searched the vehicle as well. Afterward, § 87(2)(b) was placed back into his vehicle, and he was still irate. The trunk was probably searched by other officers however PO Foy did not participate. § 87(2)(b) gave a little bit of difficulty in opening the trunk for officers however PO Foy did not elaborate. PO Foy did not recall § 87(2)(b) attempting to exit the vehicle after being told to get back inside of it. PO Foy initially stated that he did not tell § 87(2)(b) that he could be placed in handcuffs and taken to the precinct if he did not get back inside of his vehicle. PO Foy later explained that he

forgot that he said this.

§ 87(2)(b) was warned and admonished. PO Foy did not recall Sgt. Redmond giving any instructions throughout this incident and was not paying attention to whether Sgt. Redmond issued PO Aliberti any instructions. § 87(2)(b) never asked PO Foy for his shield number.

During his CCRB interview, PO Foy viewed his body-worn camera (**BR 05**; video, **BR 09**; summary) from 4:58 minutes until the end. The clip refreshed PO Foy's memory about § 87(2)(b) wanting to get out of the vehicle again after he had gotten back in. PO Foy told § 87(2)(b) he could be placed in handcuffs if he exited the vehicle for officer safety while officers searched the trunk. § 87(2)(b) could have been arrested for disorderly conduct because he was interrupting a lawful investigation.

PO Aliberti stated (**BR 13**) he was traveling on Parkside, a two-lane two-way street, when § 87(2)(b)'s vehicle swerved onto the double yellow line and came almost head on with PO Aliberti's police vehicle. § 87(2)(b) almost side swiped PO Aliberti's vehicle. PO Aliberti did not observe any other traffic violations. PO Aliberti was sitting in the front passenger seat, PO Foy was driving the vehicle, and Sgt. Redmond was in the back. PO Aliberti did not recall a verbal discussion about stopping § 87(2)(b).

PO Foy made a U-turn and pulled § 87(2)(b) over. Sgt. Redmond did not give any instructions to stop the vehicle. There was no difficulty getting § 87(2)(b) to stop. There was another police vehicle traveling with PO Aliberti's vehicle that stopped as well.

§ 87(2)(b) appeared irate and was throwing his hands up before officers even got to the window. PO Foy went to the driver's side and PO Aliberti went to the passenger's side of § 87(2)(b)'s vehicle. Sgt. Redmond may have gone to the back driver's side. PO Foy told § 87(2)(b) the reason for the stop and asked for his license. § 87(2)(b) was not happy and was yelling "Why are you stopping me?"

PO Aliberti believed § 87(2)(b)'s window was down. PO Aliberti smelled the odor of marijuana coming from the vehicle when he walked up to the vehicle. It smelled like burnt marijuana. PO Foy asked § 87(2)(b) to step out of the vehicle, patted him down, and he was brought to the back of the vehicle. PO Aliberti searched the passenger's side of the vehicle, and he was not sure who else searched the vehicle. PO Aliberti was not sure whether PO Foy or PO Cayenne searched the vehicle. PO Aliberti did not search the trunk and was not sure whether someone else did. PO Aliberti searched the vehicle due to the smell of marijuana. Marijuana was illegal in New York State at the time of this incident. Nothing was recovered from the vehicle.

PO Aliberti did not hear § 87(2)(b) ask PO Foy for his shield number. PO Aliberti did not remember hearing PO Foy threatening to place § 87(2)(b) into handcuffs to bring him into the stationhouse. Sgt. Redmond never gave any instructions during this incident, and no one instructed PO Aliberti to search the vehicle. After the search, the officers left.

Sgt. Redmond stated (**BR 14**) he was traveling in the vicinity of Parkside Avenue and Parade Place in Brooklyn, when § 87(2)(b)'s vehicle traveling in the opposite direction veered into Sgt. Redmond's lane almost striking his vehicle which caused Sgt. Redmond's operator, either PO Foy or PO Aliberti, to swerve out of the way. Sgt. Redmond felt the vehicle swerve and saw a white Mercedes-Benz right there. The officers' vehicle made a U-turn and pulled § 87(2)(b) over. Sgt. Redmond did not recall any discussion about stopping § 87(2)(b)'s vehicle. Sgt. Redmond did not remember giving instructions to stop the vehicle.

Sgt. Redmond's vehicle was traveling with another police vehicle which was directly behind Sgt. Redmond's vehicle. The second police vehicle stopped seconds after Sgt. Redmond's vehicle stopped. The officers exited the vehicle. PO Foy and Sgt. Redmond went to the driver's side and PO Aliberti went to the passenger's side of § 87(2)(b)'s vehicle. Lieutenant Lodato was across from Sgt. Redmond a little further away from the vehicle.

PO Foy approached the driver's window, explained the reason for the stop, and asked § 87(2)(b) for his driver's license. § 87(2)(b) declined and said they did not have probable cause to stop him. PO Foy informed § 87(2)(b) of the reason for the stop again and asked for his

driver's license again. § 87(2)(b) refused to provide it again. PO Foy informed § 87(2)(b) that he would be subject to arrest if he did not give him his driver's license. § 87(2)(b) also could have been issued a summons or arrested for the vehicle infraction.

PO Foy asked § 87(2)(b) whether he smoked any marijuana that day. PO Foy informed § 87(2)(b) that he smelled marijuana. Sgt. Redmond did not recall smelling marijuana himself. At first § 87(2)(b) did not want to exit the vehicle but then he stepped out willingly. It took a couple minutes for § 87(2)(b) to step out of his vehicle. PO Foy searched § 87(2)(b) and brought him to the rear of the vehicle. Sgt. Redmond never heard § 87(2)(b) ask PO Foy for his shield number, and he did not see PO Foy frisk § 87(2)(b).

Sgt. Redmond went to the rear of the vehicle. PO Cayenne was to Sgt. Redmond's left. PO Aliberti and possibly PO Cayenne searched the vehicle. Sgt. Redmond could not tell from where he was standing where the vehicle was searched. The vehicle was searched because of the odor of marijuana. Eventually, § 87(2)(b) was brought back to the front his vehicle and Sgt. Redmond went to the front as well. When the vehicle stop was concluded, § 87(2)(b) was given a warning at the officer's discretion and the officers left.

Sgt. Redmond did not recall Lieutenant Lodato issuing any instructions during the vehicle stop. Sgt. Redmond did not recall issuing any instructions to the officers.

PO Cayenne stated (**BR 15**) that members of his team conducted a vehicle stop. PO Cayenne did not recall whether he witnessed the reckless driving that led to the vehicle stop. When PO Cayenne arrived, § 87(2)(b) was already out of the vehicle and the vehicle was already being searched. PO Cayenne exited his vehicle and searched the backseat and trunk to assist. PO Aliberti searched the passenger side of the vehicle. No one requested PO Cayenne's assistance. PO Cayenne smelled marijuana when he stood outside of the vehicle and did not recall whether it smelled fresh or burnt. PO Cayenne first detected the odor coming from inside of the vehicle when he was standing outside of it. PO Cayenne did not recall smelling marijuana in the general vicinity.

Neither Sgt. Redmond nor Lieutenant Lodato gave PO Cayenne any instructions during this incident. PO Cayenne did not know which officers stopped the vehicle. PO Cayenne did not remember being in any communication with the vehicle that stopped § 87(2)(b). PO Cayenne never heard PO Foy threaten to arrest § 87(2)(b) and did not see § 87(2)(b) being frisked. PO Cayenne never heard § 87(2)(b) ask PO Foy for his shield number, and he never heard PO Foy provide his shield number.

Lieutenant Lodato stated (**BR 16**) that he was traveling in an unmarked police vehicle with PO Ng. There was another police vehicle traveling a couple car-lengths ahead of Lieutenant Lodato's vehicle. PO Foy and Sgt. Redmond were in the lead police vehicle. The lead police vehicle made a U-turn and Lieutenant Lodato's vehicle made a U-turn to follow. The lead police vehicle performed a vehicle stop. Lieutenant Lodato did not see what happened to cause the lead vehicle to make a U-turn. Lieutenant Lodato did not recall having any communication between his vehicle and the lead vehicle and he did not give instructions to stop any vehicles. Lieutenant Lodato later learned from one of the officers that there was a vehicle driving erratically that almost struck the lead vehicle.

Both police vehicles stopped, and Lieutenant Lodato was the highest-ranking member of service on scene and was supervising all the officers including Sgt. Redmond. PO Foy approached § 87(2)(b). Lieutenant Lodato was off to the side on the sidewalk as a backup role. Lieutenant Lodato was there to make sure there was scene safety and things were going the way they should. PO Foy engaged with § 87(2)(b). There was a back and forth between PO Foy and § 87(2)(b) but Lieutenant Lodato could not hear it.

PO Foy smelled marijuana and asked § 87(2)(b) to exit the vehicle. Lieutenant Lodato did not recall how he learned that PO Foy smelled marijuana. Lieutenant Lodato could not smell marijuana however he was off to the side. Lieutenant Lodato did not observe any officer frisk § 87(2)(b). § 87(2)(b) was brought to the back of his vehicle. PO Foy searched the vehicle in the front and back seats.

§ 87(2)(b) was put back in his vehicle. Lieutenant Lodato never heard PO Foy tell § 87(2)(b) he could be arrested. § 87(2)(b) could have been given a traffic violation summons for driving erratically. § 87(2)(b) was agitated and a little uncooperative. § 87(2)(b) was loud and boisterous causing three to five people to gather on the sidewalk who may have been recording. The bystanders were 10 to 12 feet from the officers. Lieutenant Lodato did not recall the bystanders making any statements or any officers interacting with them.

Lieutenant Lodato never heard § 87(2)(b) ask PO Foy for his shield number. Lieutenant Lodato said, "Let's wrap this up." § 87(2)(b) was issued a warning and the officers left. § 87(2)(b) did not receive a summons due to officer discretion. Although it was the officer's discretion to let § 87(2)(b) off with a warning, if Lieutenant Lodato had seen something that needed correcting, he would have corrected it, but there was nothing that needed correcting.

PO Foy's body-worn camera (**BR 05; video, BR 09; summary**) shows at 1:00 minute, PO Foy approaches § 87(2)(b)'s driver's window, asks why he was driving erratically, and informed him that he almost hit them. § 87(2)(b) explains that a female almost hit him. At 1:39 minutes, PO Foy asks § 87(2)(b) if he smokes and states that it smells like it. § 87(2)(b) states there is nothing in the vehicle. PO Foy instructs § 87(2)(b) to exit the vehicle. At 2:10 minutes, PO Foy frisks § 87(2)(b) and sends him to the rear of the vehicle. PO Foy then searches the front driver's side of the vehicle. At 4:14 minutes, PO Foy asks § 87(2)(b) to return to his vehicle and at 4:47 minutes, PO Foy instructs § 87(2)(b) to open the trunk. § 87(2)(b) states he wants to watch, and PO Foy instructs § 87(2)(b) to stay where he is. § 87(2)(b) states again that he wants to watch, PO Foy responds, "You're going to stay right here. If you don't sit right here, we're gonna put you in handcuffs and you're going to join us in the precinct." At 5:26 minutes, PO Foy says, "You're good man," and returns to his police vehicle. Then the video ends.

PO Foy's body-worn camera never showed PO Foy threatening to arrest § 87(2)(b) for refusing to provide his driver's license. PO Foy only threatened to place § 87(2)(b) in handcuffs once during this interaction.

PO Aliberti's body-worn camera (**BR 03; video, BR 08; summary**) shows him searching § 87(2)(b)'s vehicle between 2:35 minutes and 3:50 minutes. PO Cayenne's body-worn camera (**BR 06; video, BR 09, summary**) shows him searching § 87(2)(b)'s vehicle between 1:13 minutes and 3:24 minutes.

In *People v. Chestnut*, 43 A.D.2d 260 (1974) (**BR 17**) the court found that the smell of marijuana smoke, with nothing more, can be sufficient to provide police officers with probable cause to search a vehicle and its occupants.

New York penal code § 195.05 (**BR 18**) states that a person is guilty of obstructing governmental administration when they intentionally obstruct, impair, or pervert the administration of law or attempt to prevent a public servant from performing an official function.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Abuse of Authority: Police Officer Alfred Foy failed to provide § 87(2)(b) with a business card.

Allegation (H) Abuse of Authority: Police Officer Frank Aliberti failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Police Officer Christian Cayenne failed to provide § 87(2)(b) with a business card.

Allegation (J) Abuse of Authority: Lieutenant Michael Lodato failed to supervise in relation to § 87(2)(b)

Allegation (K) Abuse of Authority: Sergeant Thomas Redmond failed to supervise in relation to § 87(2)(b)

It was undisputed that § 87(2)(b) did not receive business cards from any officer. § 87(2)(b) stated (BR 11) that after the officers finished searching his vehicle, they left without giving him any summonses or business cards.

PO Foy (BR 12) did not provide a business card to § 87(2)(b) and he did not know whether any other officer provided a business card. PO Foy's understanding was that for an incident like this, where there was a vehicle stop and the driver was warned and admonished, the driver should be provided with a business card. PO Foy did not recall why he did not provide a business card. § 87(2)(b) never asked for a business card and PO Foy did not know whether one was offered to him.

PO Aliberti stated (BR 13) he did not personally want to issue § 87(2)(b) a summons for his driving because he was already irate and that would make him more irate. He did not know the reason why no one else issued him a summons. PO Aliberti had business cards on him, and he did not provide a business card to § 87(2)(b). PO Aliberti did not see any other officer provide a business card nor did he hear § 87(2)(b) ask for one. PO Aliberti did not provide a business card to § 87(2)(b) because he was not the contact officer and he never spoke to him.

Sgt. Redmond (BR 14) did not provide a business card to § 87(2)(b) and he did not see any other officer provide a business card to § 87(2)(b). Sgt. Redmond had business cards on him. It was Sgt. Redmond's understanding that he was supposed to provide a business card during a level 2 or level 3 stop, and this was a level 4 stop because they had probable cause to stop him based on the vehicle infraction.

PO Cayenne (BR 15) did not provide a business card to § 87(2)(b) at the conclusion of the vehicle stop. PO Cayenne's business cards were in his vehicle. It was PO Cayenne's understanding that he was to provide a business card during an interaction or enforcement action. He did not provide a business card to § 87(2)(b) because he did not initiate the stop and one was not requested. PO Cayenne did not remember seeing anyone else provide a business card to § 87(2)(b).

Lieutenant Lodato (BR 16) did not recall observing any officers provide a business card. Lieutenant Lodato did not provide a business card. Lieutenant Lodato had business cards. It was lieutenant Lodato's understanding that he was required to provide a business card during level 2 and 3 stops. This stop was a level 4 stop because there was probable cause due to the smell of marijuana, and § 87(2)(b) did not request one.

NYC Administrative Code § 14-174 (BR 19) states that during a law enforcement activity, officers shall identify themselves by providing their name rank and command, provide an explanation for the law enforcement activity, and offer a business card at the conclusion of such activity that does not result in an arrest or summons. Law enforcement activity includes frisks and searches of vehicles.

NYPD Patrol Guide procedure 203-09 (BR 20) states that when officers interact with a member of the public during a law enforcement activity, including frisks and search of vehicles,

then officers are to courteously state their name, rank, shield number and command, explain the reason for the law enforcement activity, and offer a right to know business card upon the conclusion of the law enforcement activity except in cases when a summons is issued or an arrest is made.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 21).
- PO Foy has been a member of service for eight years and named a subject in four additional CCRB complaints and nine allegations, none of which were substantiated.
- PO Aliberti has been a member of service for seven years and named a subject in six additional CCRB complaints and seven allegations, none of which were substantiated.
- PO Cayenne has been a member of service for eight years and named a subject in nine additional CCRB complaints and 33 allegations, two of which were substantiated.
 - 201808784 involved a substantiated allegation of a stop. The Board recommended Command Discipline B and the NYPD imposed Formalized Training.
 - 201810201 involved a substantiated allegation of a search of person. The Board recommended Command Discipline B and the NYPD imposed Command Discipline A.
- Sgt. Redmond has been a member of service for 12 years and named a subject in nine additional CCRB complaints and 19 allegations, none of which were substantiated.
 - § 87(2)(g)
- Lieutenant Lodato has been a member of service for 19 years and named a subject in five additional CCRB complaints and nine allegations, none of which were substantiated.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) rejected mediation as an alternative to resolve this complaint.
- As of October 28, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (BR 22).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 11

Investigator: Kelly Lyon Inv. Kelly Lyon 03/28/2022
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 03/28/2022
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date